

ASSOCIATED STUDENTS OF
THE UNIVERSITY OF ARIZONA

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ARIZONA®
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May 11, 2005

Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: **MUR 5650**

Ladies and Gentlemen:

I am an undergraduate student employee at the University of Arizona. I did not receive your March 14, 2005 letter referencing the above numbered complaint filed by Bennett S. Kalafut (the "Complaint") until May 4, 2005. The reason for my late receipt is that your letter was sent to the wrong mailing address and had to be forwarded to me. My correct mailing address and contact information are listed above. As a result, please accept my response to the Complaint as timely filed.

You have requested that I respond to the Complaint in my official capacity as Director of the Speakers Board for the Associated Students of the University of Arizona ("ASUA"). ASUA is a department of the University of Arizona. Therefore, any authorized actions by me in my official capacity as Director of the Speakers Board were taken on behalf of the University. Accordingly, my response to the Complaint is the same as the University's response, dated March 24, 2005, previously filed with your office by the Arizona Board of Regents on behalf of the University.

In summary, neither I in my official capacity nor the University engaged in any contribution prohibited by the Federal Election Campaign Act of 1971, 2 U.S.C. § 431 et seq. (the "Act"). Section 441b(a) of the Act prohibits a "corporation" from making a "contribution" in connection with any federal election. The University falls outside of the definition of "corporation" under section 441b, because it is an instrumentality of the State of Arizona and an integral part of a governmental agency.

Nonetheless, if the University is deemed a "corporation" for purposes of the Act, it still met the requirements of the Federal Election Commission's regulations when it staged the debate between Senatorial candidates John McCain and Stuart Starky. First, the University used its own funds to stage the Debate. Second, the University invited at least two candidates, McCain and Starky, who each participated in the

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Debate. Third, the University did not promote or advance either one of these two candidates over the other. Finally, the University did not use a candidate's political party as its sole objective criteria for determining which of them should participate.

In deciding whether to stage the Debate, the University initially determined that a debate between McCain and Starky would create the most student interest and attract the greatest number of students to attend the occasion. The selection process did not involve any consideration of the candidates' viewpoints. The most important consideration was that McCain and Starky both had significant student and voter interest and support, as well as a high level of campaign activity. Conversely, Senatorial candidate Ernest Hancock had little student and voter interest, and low campaign activity in comparison. The November 2004 election results support this point; McCain won with 76.7% of the popular vote, Starky came in second with 20.6%, and Hancock finished last with 2.6%.

For the reasons stated above and in the University's March 24, 2005 response, any official actions that I took on behalf of the University in staging the debate between Senatorial candidates John McCain and Stuart Starky did not constitute an unlawful campaign contribution. Consequently, I request that the Commission take no further action with respect to the Complaint. Please feel free to contact me if you need any additional information.

Respectfully submitted,



Fernando Ascencio
Director of the Speakers Board
Associated Students of the University of Arizona



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